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COUNSELLORS AT LAW

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John J. Cloherty III \*

Of counsel:  
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Jeffrey M. Sankey\*

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John Fe  
David C. H r †  
Robert S. Lu o † ●  
Maureen L. P roy o  
Daniel G. S ♦  
Darlene M. T ci ■

\* also admitt RI  
♦ also admitt PA  
† also admitte NY  
● also admitt CT  
■ also admitt FL  
o also admitte NH

September 21, 2005

Clerk of Court  
United States District Court  
District of Massachusetts  
One Courthouse Way  
Boston, MA 02210

Re: Danny Searles, et al. v. Deborah Stone, et al.  
U.S.D.C. Civil Action No. 05-11815MLW  
Middlesex Superior Court C.A. No. 05-1845  
Our File No.: 164-0403265

Dear Sir/Madam:

Enclosed please find attested copies of the records, proceedings and docket entries received by the Middlesex Superior Court in connection with the above-referenced matter prior to the removal of the case to this Court on September 6, 2005.

Thank you for your attention to this matter.

Very truly yours,

**PIERCE, DAVIS & PERRITANO, LLP**



David C. Hunter

DCH/rcm  
Enclosures

cc: Jeffrey N. Roy, Esq. (w/out enclosures)

**Commonwealth of Massachusetts**

**County of Middlesex**

**The Superior Court**

I, Michael Brennan, Assistant Clerk of the Superior Court of the Commonwealth of Massachusetts within and for said County of Middlesex, do certify that the papers hereto annexed are true pleadings in case No. MICV2005-01845 entered on the Superior Court on 05/31/2005.

IN TESTIMONY WHEREOF, I hereunto set my hand and  
affix the seal of said Superior Court, at said Lowell,  
this 9th day of September, in the year of our Lord 2005



A handwritten signature in black ink, appearing to read "Michael M. Brennan". The signature is written over a horizontal dotted line.

Michael M. Brennan, Clerk Magistrate  
Lowell Superior Court.

Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT  
Case Summary  
Civil Docket

**MICV2005-01845**  
**Searles (ppa) et al v Stone et al**

<b>File Date</b>	05/31/2005	<b>Status</b>	Disposed: transfered to other court (dtrans)
<b>Status Date</b>	09/09/2005	<b>Session</b>	L - Cv time-stan 1 (Lowell)
<b>Origin</b>	1	<b>Case Type</b>	E03 - Action against Commonwealth/municipl
<b>Lead Case</b>		<b>Track</b>	A

<b>Service</b>	08/29/2005	<b>Answer</b>	10/28/2005	<b>Rule12/19/20</b>	10/28/2005
<b>Rule 15</b>	08/24/2006	<b>Discovery</b>	07/20/2007	<b>Rule 56</b>	09/18/2007
<b>Final PTC</b>	01/16/2008	<b>Disposition</b>	05/30/2008	<b>Jury Trial</b>	Yes

**PARTIES**

**Plaintiff**

Danny Searles (ppa)  
Groton, MA  
Active 05/31/2005

**Plaintiff**

Susan Searles  
Groton, MA  
Active 05/31/2005

**Plaintiff**

Glenn Searles  
Groton, MA  
Active 05/31/2005

**Defendant**

Deborah Stone  
60B Broad Street  
Hollis, NH 03049  
Served: 08/22/2005  
Served (answr pending) 08/22/2005

**Private Counsel 548618**

Jeffrey N Roy  
Ravech & Roy  
699 Boylston Street  
1 Exeter Plaza  
Boston, MA 02116  
Phone: 617-303-0500  
Fax: 617-303-0501  
Active 05/31/2005 Notify

\*\*\* See Attorney Information Above \*\*\*

\*\*\* See Attorney Information Above \*\*\*

ginger

Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT  
Case Summary  
Civil Docket

01:44 AM

MICV2005-01845  
Searles (ppa) et al v Stone et al

**Defendant**

Phyllis Jewett  
130 Main Street  
Townsend, MA 01469  
Served: 08/19/2005  
Served (answr pending) 08/19/2005

**Defendant**

Groton-Dunstable Regional School District  
Tarbell School P.O. Box 729  
73 Pepperell Road  
Groton, MA  
Served: 08/22/2005  
Served (answr pending) 08/22/2005

**Private Counsel 647686**

David C Hunter  
Pierce Davis & Perritano  
10 Winthrop Square  
5th floor  
Boston, MA 02110  
Phone: 617-350-0950  
Fax: 617-350-7760  
Active 09/09/2005 Notify

**Private Counsel 115890**

John J Davis  
Pierce Davis & Perritano  
10 Winthrop Square  
5th Floor  
Boston, MA 02110-1264  
Phone: 617-350-0950  
Fax: 617-350-7760  
Active 09/09/2005 Notify

**ENTRIES**

Date	Paper	Text
05/31/2005	1.0	Complaint & civil action cover sheet filed
05/31/2005		Origin 1, Type E03, Track A.
08/19/2005	2.0	SERVICE RETURNED: Phyllis Jewett(Defendant) l & u on 08/16/05
08/22/2005	3.0	SERVICE RETURNED: Groton-Dunstable Regional School District(Defendant) in hd. on 08/17/05
08/22/2005	4.0	Affidavit of compliance with long-arm statute with proof of service on out of state defendant Deborah Stone on 08/17/05 by certified mail (return receipt attached thereto)
09/09/2005	5.0	Notice for Removal to the United States District Court filed by Groton-Dunstable Regional School District
09/09/2005		Case REMOVED this date to US District Court of Massachusetts

**EVENTS**

MIDDLESEX, ss.

Commonwealth of Massachusetts

SUPERIOR COURT DEPARTMENT OF THE JUDICIAL BRANCH

and of record here by making public notice of the same  
on my hand and affixing the seal of said Department  
this 14th day of September, 2005

Virginia Purcell  
Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

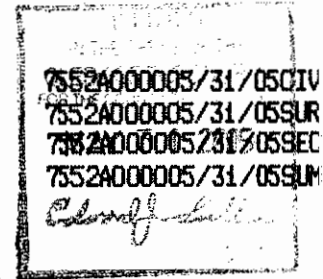
MIDDLESEX, ss.

SUPERIOR COURT  
DEPARTMENT OF THE  
TRIAL COURT  
C.A. NO. **05-1845**

DANNY SEARLES, by his mother  
and next friend Susan Searles,  
SUSAN SEARLES, and  
GLENN SEARLES,  
Plaintiffs,

vs.

DEBORAH STONE,  
PHYLLIS JEWETT, and  
GROTON-DUNSTABLE REGIONAL  
SCHOOL DISTRICT,  
Defendants.



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ARGE 15.00  
20.00  
IS 15.00

COMPLAINT AND DEMAND FOR JURY TRIAL

*The Parties*

1. Plaintiff Danny Searles is a natural person residing in Groton, Middlesex County, Massachusetts. As he is a minor, this action is brought in his behalf by his mother and next friend Susan Searles.

2. Plaintiff Susan Searles is a natural person residing in Groton, Middlesex County, Massachusetts.

3. Plaintiff Glen Searles is a natural person residing in Groton, Middlesex County, Massachusetts.

4. Defendant Deborah Stone is a natural person residing at 60B Broad Street, Hollis, New Hampshire 03049.

5. Plaintiffs' causes of action against defendant Stone arise from defendant's:

- a. transacting business in the Commonwealth of Massachusetts;
- b. contracting to supply services or things in the Commonwealth of Massachusetts;
- c. causing tortious injury by an act or omission in the Commonwealth of Massachusetts;
- d. causing tortious injury in the Commonwealth of Massachusetts by an act or omission outside of the Commonwealth of Massachusetts and regularly doing soliciting business, and engaging in other persistent courses of conduct, and deriving substantial revenue from goods used or consumed or services rendered in the Commonwealth of Massachusetts; or
- e. having an interest in, using or possessing real property in the Commonwealth of Massachusetts.

6. Defendant Groton-Dunstable Regional School District is a regional school district formed pursuant to Mass. G.L. c. 71 §§ 14-16 (hereinafter referred to as the "District"). The District has its principal place of business at the Tarbell School, P.O. Box 729, 73 Pepperell Road, West Groton, Middlesex County, Massachusetts.

7. Defendant Phyllis Jewett is a natural person residing at 130 Main Street, Townsend, Middlesex County, Massachusetts, 01469.

*Factual Allegations Common to All Counts*

8. On August 21, 2003, Danny Searles, a developmentally-disabled eleven-year old boy, failed to show up for school. Instead of dropping Danny off at school, his bus driver, the Defendant Deborah Stone, left Danny restrained in a sweltering school bus for over six hours

9. Danny is a profoundly developmentally-disabled eleven year old boy with limited cognitive abilities. In addition to brain damage, which he was born with, Danny suffers from epilepsy. He is immobile and must be transported in a wheelchair. Danny is incapable of communicating or caring for himself.

10. On August 11, 2003, Danny began attending a school at Children's Extended Care Center in Groton, a facility affiliated with Children's Hospital in Boston.

11. Until the time of the incident, Danny was provided with transportation to and from Children's Extended Care Center by the Groton-Dunstable Regional School District.

12. In particular, every school day, a bus driver employed by the District would arrive Danny's house in the morning. The driver would then load Danny into a District-owned van equipped with a wheelchair ramp, and secure him with seatbelts and/or strapping. After loading Danny, the driver would deliver Danny to Children's Extended Care Center.

13. The distance from Danny's home to Children's Extended Care Center is approximately three miles.

14. Because the route is generally free from traffic, the travel time from Danny's home to Children's Extended Care Center is ten minutes or less.

15. Following the completion of a school day, the driver would deliver Danny back to his home.

16. Defendant Stone had been employed as a special education bus driver by the District since February 2003.



17. Beginning on or around August 19, 2003, Danny's normal driver, Holly Muggleston was on vacation. Defendant Stone was the substitute driver for Danny during the week of the incident.

18. During the week of the 19th and, in particular, on the 21st, Danny was the only child transported in the van operated by Stone.

19. Prior to August 19, 2003, Stone had never driven Danny's route and had never driven a wheelchair equipped special education van.

20. Stone received no special training or instruction from District officials before taking over Ms. Muggleston's route and van. Instead, Ms. Muggleston informally showed Stone how to operate the wheelchair van and allowed Stone to accompany her on the route in the week before her vacation.

21. Stone kept the non-wheelchair special education van she normally drove parked at her home. Accordingly, during the week of the 19th, she drove that van to the Roach School parking lot, located off Main Street in Groton, where the wheelchair van was kept. She parked her usual van in the parking lot and drove the wheelchair van on Ms. Muggleston's route.

22. After delivering Danny (prior to the 21st) to Children's Extended Care Center, she would return the wheelchair van to the parking lot, retrieve her normal special education van and then drive back to her home in Hollis, NH, where she would do farm work until it was time to pick up Danny from school.

23. In the afternoon, she would repeat the process of exchanging vans, delivering Danny, and exchanging vans again.



24. At approximately 9:00 am on the 21st, Stone arrived at the Plaintiffs' home to pick Danny.

25. Stone loaded Danny into the wheelchair van and secured him in the back corner on the driver's side. There are no visual obstructions between the driver's seat and where Danny is located.

26. Stone never delivered Danny to his school at Children's Extended Care. Instead, she drove to the Roach School parking lot complex and parked the wheelchair van (leaving Danny inside), picked up her usual van, and drove to the Main Street Café in Groton, where she met supervisor Phyllis Jewett for coffee.

27. Before leaving the wheelchair van in the Roach School lot, Stone did not check the van to ensure she had delivered Danny to his school.

28. After approximately thirty minutes at the Café, Stone drove back to Hollis.

29. Meanwhile, Danny was trapped inside the wheelchair van in the parking lot of the school complex unable to move, free himself, or call out for help.

30. The van was parked in a space behind which is a small tree. The tree, however, provides no shade.

31. The day was hot and humid with temperatures at or above ninety degrees.

32. As Danny remained trapped in the van, unable to help himself, his internal temperature began to rise to dangerously high levels.

33. After approximately six hours, Stone returned to the Roach lot and retrieved the wheelchair van, apparently unaware that she had left Danny in the van all day.

34. She proceeded to Children's Extended Care Center, apparently believing she had dropped Danny off in the morning.

35. During the one mile journey from the Roach lot to Children's Extended Care Center, Stone did not see Danny in the rear corner of the van, where she had restrained him earlier in the day.

36. Upon arriving at Danny's school at approximately 3:15pm, Stone was confronted by Danny's teacher, Cathy Mencer. Ms. Mencer asked why Danny had not come to school that day. Stone stated she had dropped him off. When Ms. Mencer insisted that this had not occurred, Stone was confused and said "What have I done?" and drove back toward the Roach school lot.

37. After a short distance, Stone saw Danny's head lolling just above the seats. She backed up to Children's Extended Care Center and told Ms. Mencer that Danny had been left in the van all day.

38. Mencer and other staff at the Center, including the school nurse, took Danny out of the van and began to administer first aid and attempted to bring his temperature down.

39. Danny's temperature reached at least 104.4°F, and he had limp arms, a limp neck, pale white skin with pink blotches on his arms, and saliva coming from his mouth. Danny was unresponsive and lethargic. In addition, Danny had bruising on his neck from chafing against the wheelchair restraints in the school van.

40. An ambulance came and rushed Danny to Nashoba Valley Hospital.

41. At around the same time, Danny's parents were contacted by staff from Children's Extended Care and informed of the incident.

42. They arrived at the hospital at 3:30pm shortly after Danny arrived by ambulance.

43. When she saw Danny and his condition, Mrs. Searles became hysterical and had to be taken to another room.

44. Based upon their visual observations of Danny, and the information they had received, both Mr. and Mrs. Searles expected that their child would die from the severe heat exposure.

45. That expectation coupled with Danny's physical appearance and obvious suffering caused both parents extreme emotional distress and anguish.

46. The staff at Nashoba Valley succeeded in bringing Danny's temperature down.

47. Testing at Nashoba Valley revealed that Danny had elevated levels of creatine kinase indicating brain injury.

48. Danny was transported to North Shore Children's Hospital for closer supervision treatment.

49. Danny was hospitalized for several days due to the incident.

50. The Middlesex District Attorney charged Defendant Stone with criminal child endangerment.

51. On February 12, 2004, Stone pleaded guilty and was sentenced to two year's probation and is barred from driving a school bus for life.

52. Prior to the incident, the District had promulgated "SPED Van Driver Training". That training includes familiarizing new drivers with locations of schools in the district and teaching the driver the route with either the current driver or the transportation manager as the instructor.

53. The training policy indicates that "at least three days of live training is required."

54. The SPED Van Driver Training also instructs drivers on maintenance of a daily vehicle inspection log and daily cleaning of the vehicle.

55. The district also established "Special Education Transportation Operating Procedures." Those procedures required, among other things, a daily safety check of the vehicle prior to operation, completion of a vehicle log, and "at the conclusion of each run (AM & PM check[ing] the vehicle for personal items, cleanliness, and safety hazards."

56. Though the District has established the procedures, high-ranking officials of the District have indicated that policies with regard to checking the school bus after a morning drop-off were not regularly followed.

57. Neither policy by its terms requires the driver to check to make sure all students have been dropped off as scheduled and that no students remained on the bus. Neither policy requires drivers to speak with local school officials when dropping students off.

58. Pursuant to the Massachusetts Tort Claims Act, Plaintiffs are required to make presentment of their claims to the Defendant District.

59. On November 14, 2003, Plaintiffs made presentment by mailing a letter outlining the claims made in this complaint to Jeanne Niemoller, President of the Groton Dunstable Regional School Board as well as the other members of the Groton Dunstable Regional School Board. A copy of the letter was sent to the Superintendent of the School District, Dr. Mary Athey Jenkins, as well as the Selectmen of Groton and Dunstable.

60. The Massachusetts Tort Claims Act requires the presentment letter be sent to the appropriate executive official of the governmental entity. Niemoller and the other members of the Groton Dunstable Regional School Board are executive officers of the Defendant District.

61. Pursuant to the terms of Mass. G. L. c. 258, § 4, the Defendant District had six months in which to respond to Plaintiffs' presentment after which time Plaintiffs are allowed to bring suit.

62. Defendant District has not contacted Plaintiffs since receiving the presentment letter.

63. Plaintiffs have made proper presentment and satisfied all the prerequisites for bringing claims under the Massachusetts Tort Claims Act.

#### **COUNT 1 - NEGLIGENCE AGAINST DEBORAH STONE**

64. The foregoing paragraphs are incorporated into this count by reference.

65. Stone had a duty of delivering Danny safely to school each day.

66. Stone breached that duty by failing to deliver him to his school and by leaving Danny trapped in a sweltering school bus for hours.

67. By reason of the foregoing negligent acts or omissions, plaintiff Danny Searles suffered and will continue to suffer great pain of both body and mind. He has undergone and will continue to undergo medical and hospital care and treatment. His ability to enjoy life and engage in his usual activities have all been permanently and adversely affected.

#### **COUNT 2 - NEGLIGENCE AGAINST THE DISTRICT AND JEWETT**

68. The foregoing paragraphs are incorporated into this count by reference.

69. The District and Defendant Jewett had a duty to provide Danny with safe transportation to school each day.

70. The District and Jewett breached their duties by failing to adequately train or supervise Stone.

71. In addition, the District's failure to promulgate policies requiring two daily checks the van for remaining pupils and to speak with receiving teachers and/or failing to require adherence to such policies is a breach of its duty to Danny and other pupils.

72. Moreover, the District's policy, allowing school bus drivers to exchange vans before and after drop-offs, created a foreseeable danger that drivers would forget to drop off disabled children and thus was a breach of the District's duty to Danny and other pupils.

73. By reason of the foregoing negligent acts or omissions, plaintiff Danny Searles suffered and will continue to suffer great pain of both body and mind. He has undergone and will continue to undergo medical and hospital care and treatment. His ability to enjoy life and engage in his usual activities have all been permanently and adversely affected.

**COUNT 3 - RESPONDEAT SUPERIOR AGAINST THE DISTRICT**

74. The foregoing paragraphs are incorporated into this count by reference.

75. The District, as the employer of Stone, is vicariously liable for her acts and omissions, occurring during the course and scope of her duties as a driver.

76. Accordingly, the District is vicariously liable for Stone's negligent and intentional acts in leaving Danny in the bus for hours, and for the resulting damages.

**COUNT 4 - NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS  
AGAINST THE DISTRICT AND DEBORAH STONE**

77. The foregoing paragraphs are incorporated into this count by reference.

78. Both Mr. and Mrs. Searles viewed Danny immediately in the hospital following his transport there.

79. Upon seeing Danny's poor condition and learning of the incident, both of his parer suffered extreme mental anguish and distress. Both feared their son would die.

80. The emotional distress suffered by each has manifested itself in a variety of ways including hysterical screaming and nightmares.

81. The distress suffered by Mr. and Mrs. Searles was proximately caused by Stone's, Jewett's, and the District's negligence.

**COUNT 5 - FALSE IMPRISONMENT AGAINST DEBORAH STONE**

82. The foregoing paragraphs are incorporated into this count by reference.

83. Stone intentionally bound Danny to his wheelchair after loading him into the van August 21, 2003.

84. Danny was prevented from moving or releasing himself.

85. Danny's detention became excessive in scope and duration and thus became unlawful, when he was not delivered to school and instead left in the bus all day.

86. Danny and his parents suffered extreme physical and emotional pain as a proxima result of the unlawful detention.

**COUNT 6 - VIOLATION OF 42 U.S.C. § 1983 BY DEBORAH STONE**

87. The foregoing paragraphs are incorporated into this count by reference.

88. Stone, an employee of the District acted under color of state law when she failed deliver Danny to school.

89. Because Danny was her charge and manifestly unable to care for himself, Stone's failure to take precautions against his endangerment constitutes deliberate indifference to his



safety in violation of the rights guaranteed him by the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

90. In addition, Stone's actions in strapping Danny into his place in the van constitute seizure within the meaning of the Fourth Amendment to the United States Constitution.

91. That seizure was unreasonable both in its duration and the conditions endured by Danny.

92. Stone thus violated Danny's Fourth Amendment rights.

93. Stone, acting under color of state law, is liable under 42 U.S.C. §1983 for violating Danny's Fourteenth and Fourth Amendment rights.

**COUNT 7 - MUNICIPAL AND SUPERVISORY LIABILITY UNDER 42 U.S.C. § 1983**

94. The foregoing paragraphs are incorporated into this count by reference.

95. At the time of the incident, the law was clearly established, and the District and Jewett knew or should have known, that leaving a pupil in a sweltering bus for hours violated the pupil's Due Process and Fourth Amendment rights.

96. The District and Jewett acted with deliberate indifference to the rights of their pupils by failing to train Stone more effectively on her new route, by failing to promulgate policies and procedures for replacement drivers, by failing to promulgate policies regarding checking the vans for pupils left on the vans, by failing to promulgate policies and requiring drivers to speak with teachers receiving disabled children, by failing to prohibit special education drivers from exchanging vans before and after driving their routes, and by failing to require adherence to existing policies.

97. It would be manifest to any reasonable official that failing to require such training and failing to have such policies and protections in place would very likely result in a profound disabled student like Danny being left on a bus.

98. The District's and Jewett's omissions are affirmatively linked to Plaintiffs' injuries. The District promulgated a policy requiring two daily checks of a school bus, but by the acknowledgement of senior District officials, it did not observe such a policy. That laxity, reinforced in the informal and inadequate training given to drivers entrusted with the most vulnerable children, is a tacit approval and purposeful disregard of the possibility that disabled pupils will be trapped in buses.

**COUNT 8 - VIOLATION OF MASS. G.L. C. 12 §§ 11H, 11I  
BY STONE AND THE DISTRICT**

99. The foregoing paragraphs are incorporated into this count by reference.

100. As alleged, Stone violated Danny's civil rights by seizing him and leaving him in the school bus all day long.

101. The District's and Jewett's failure to train Stone and have effective policies in place also caused Plaintiffs' injuries.

102. These actions and omissions by Stone, the District, and Jewett constitute violations of the Massachusetts Civil Rights Act.

WHEREFORE, Plaintiffs respectfully request that the Court:

- a. Award Plaintiffs damages incurred as a result of the wrongful actions and conduct of Defendants;

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- b. Award attorneys fees pursuant to 42 U.S.C. § 1988 and Mass. G.L. c. 12, § 11I
- c. Award such other and further relief as the Court deems just and proper.

**JURY CLAIM**

PLAINTIFFS CLAIM TRIAL BE JURY ON ALL COUNTS.

Plaintiff,  
By her attorneys,

A handwritten signature in black ink, appearing to read "Jeffrey N. Roy", is written over a horizontal line.

Jeffrey N. Roy  
RAVECH & ROY, P.C.  
One Exeter Plaza  
Boston, MA 02116  
(617) 303-0500  
BBO #548618

DATED: May 31, 2005

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
~~TORT~~ — MOTOR VEHICLE TORT — CONTRACT —  
 EQUITABLE RELIEF — OTHER

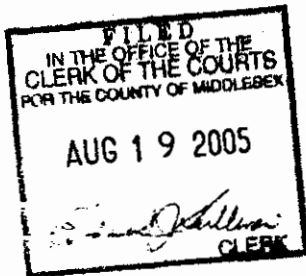
COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss  
 [seal]

SUPERIOR COURT  
 DEPARTMENT  
 OF THE  
 TRIAL COURT  
 CIVIL ACTION  
 No.

05-1 45 L

...DANNY SEARLES, et al., Plaintiff(s)



v.

DEBORAH STONE, et al., Defendant(s)  
 PHYLLIS JEWETT, and  
 GROTON-DUNSTABLE REGIONAL SCHOOL DISTRICT

SUMMONS

To the above-named Defendant: PHYLLIS JEWITT

You are hereby summoned and required to serve upon Jeffrey N. Roy  
 plaintiff's attorney, whose address is Ravech & Roy, P.A.  
 One Exeter Plaza, Boston, MA 02116  
 an answer to the complaint which is served upon you, within 20 days after service of this summons upon you, exclusive of the day of service  
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You  
 required to file your answer to the complaint in the office of the Clerk of this court at Lowell  
 either before service upon plaintiff's attorney or in a  
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which may  
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
 claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse

Witness, Suzanne V. DeVecchio, Esquire, at Lowell  
 15th August  
 the day of  
 in the year of our Lord 2005

*Edward J. Sullivan*  
 Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

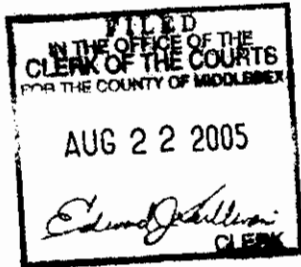
TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
~~TORT~~ MOTOR VEHICLE TORT — CONTRACT —  
 EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss  
 [seal]

SUPERIOR COURT  
 DEPARTMENT  
 OF THE  
 TRIAL COURT  
 CIVIL ACTION  
 No.

05-145 L



DANNY SEARLES, et als., Plaintiff(s)

v.

DEBORAH STONE, et als., Defendant(s)  
 PHYLLIS JEWETT and  
 GROTON-DUNSTABLE REGIONAL SCHOOL DISTRICT

SUMMONS

To the above-named Defendant: GROTON-DUNSTABLE REGIONAL SCHOOL DISTRICT

You are hereby summoned and required to serve upon Jeffrey N. Roy, plaintiff's attorney, whose address is Ravech & Roy, P.C., One Exeter Plaza, Boston, MA 02116, an answer to the complaint which is served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are required to file your answer to the complaint in the office of the Clerk of this court at Lowell, either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse  
 Witness, Suzanne V. DeVecchio, Esquire, at Lowell, the 31st day of August, 2005, in the year of our Lord

*Edmund J. Sullivan*  
 Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate caption is used for each defendant, each should be addressed to the particular defendant.

4

COMMONWEALTH OF MASSACHUSETTS

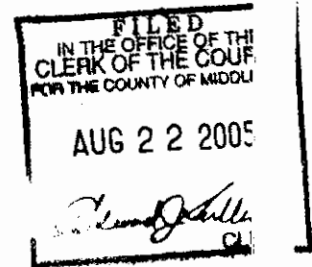
MIDDLESEX, ss.

SUPERIOR COURT  
DEPARTMENT OF THE  
TRIAL COURT  
C.A. NO. 05-1845-L

DANNY SEARLES, by his mother  
and next friend Susan Searles,  
SUSAN SEARLES, and  
GLENN SEARLES,  
Plaintiffs,

vs.

DEBORAH STONE,  
PHYLLIS JEWETT, and  
GROTON-DUNSTABLE REGIONAL  
SCHOOL DISTRICT,  
Defendants.



AFFIDAVIT OF COMPLIANCE


I, Jeffrey N. Roy, being duly sworn, hereby certify that on August 15, 2005, I served a copy of the Complaint, with Summons, Civil Action Cover Sheet, and Tracking Order in the above-captioned matter upon the Defendant, Deborah J. Stone, by mailing same, via certified mail, return receipt requested to the following address:

Deborah J. Stone  
146 Concord Street  
Nashua, NH 03064-1720

On or about August 19, 2005, I received a return receipt under date of August 17, 2005 signed by Deborah Stone.

Attached, hereto are a copy of my cover letter, the original summons and the original return receipt.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 19<sup>th</sup> DAY C  
August, 2005.

  
Jeffrey N. Roy



TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
~~TORT~~ — MOTOR VEHICLE TORT — CONTRACT —  
 EQUITABLE RELIEF — OTHER

## COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss  
 [seal]

SUPERIOR COURT  
 DEPARTMENT  
 OF THE  
 TRIAL COURT  
 CIVIL ACTION  
 No. 05-1 15 L

DANNY SEARLES, et als., Plaintiff(s)

v.

DEBORAH STONE, ~~et als.~~, Defendant(s)  
 PHYLLIS JEWETT, and  
 GROTON-DUNSTABLE REGIONAL SCHOOL DISTRICT

## SUMMONS

To the above-named Defendant: DEBORAH STONE

You are hereby summoned and required to serve upon Jeffrey N. Roy, plaintiff's attorney, whose address is Ravech & Roy, One Exeter Plaza, Boston, MA 02116, an answer to the complaint which is served upon you, within 20 days after service of this summons upon you, exclusive of the day of service if you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Lowell, either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Lowell, the 15th day of August, 2005, in the year of our Lord 2005.

*Edward J. Sullivan*  
 Clerk

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.



**RAVECH & ROY, P.C.**

ATTORNEYS AT LAW  
ONE EXETER PLAZA  
699 BOYLSTON STREET  
BOSTON, MASSACHUSETTS 02116

(617) 303-0500

FACSIMILE (617) 303-0501

August 15, 2005

**CERTIFIED MAIL NO.: 7004 2890 0000 0433 3993**  
**RETURN RECEIPT REQUESTED**

Deborah J. Stone  
146 Concord Street  
Nashua, NH 03064-1720

Re: Danny Searles et als.  
Vs: Deborah Stone, et als.  
Civil Action No.: MICV2005-1845 L

Dear Ms. Stone:

Enclosed is a copy of a Summons along with a Complaint which was filed in the Middlesex Superior Court on May 31, 2005.

You have been served this Complaint, Summons, Civil Action Cover Sheet, and Tracking Order pursuant to the Massachusetts Long-Arm Statute, M.G.L., Chapter 223A, Section 6. The Statute reads, inter alia:

- a. When the law of the Commonwealth authorizes service outside this Commonwealth, the service, when reasonably calculated to give actual notice, may be made:
- b. By any form of mail addressed to the person to be served and requiring a signed receipt.

**RAVECH & ROY, P.C.**

ATTORNEYS AT LAW  
ONE EXETER PLAZA  
699 BOYLSTON STREET  
BOSTON, MASSACHUSETTS 02116

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7004 2890 0000 0430 3993

**U.S. Postal Service<sup>TM</sup>**  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)**OFFICIAL USE**

Postage	\$ 1.06
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.11</b>

Postmark  
Hole

Sent To Deborah T. Stone  
 Street, Apt. No.,  
 or PO Box No. 146 Concord St.  
 City, State, ZIP+4 Nashua, NH 03064-1720

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

DEBORAH J. STONE  
 146 CONCORD STREET  
 NASHUA, NH  
 03064-1720

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature Deborah Stone ☐ Agent ☐ Addressee
- B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery 8/17/05
- D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type AUG 17 2005  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ Signature Required
4. Restricted Delivery? ☐ Yes

2. Article Number  
(Transfer from service label)

7004 2890 0000 0430 3993

PS Form 3811, February 2004

Domestic Return Receipt

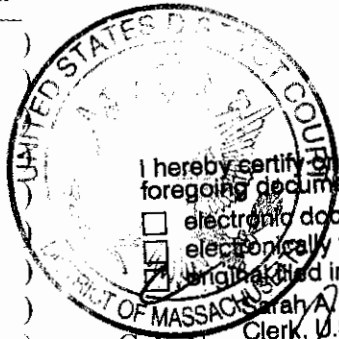
102595-02-M-150

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

DANNY SEARLES, by his mother,  
and next friend Susan Searles,  
SUSAN SEARLES, and  
GLEN SEARLES,  
Plaintiff,

v.

DEBORAH STONE,  
PHYLLIS JEWETT, and  
GROTON-DUNSTABLE REGIONAL  
SCHOOL DISTRICT  
Defendant



I hereby certify that the foregoing document is true and correct copy of  
☐ electronic docket in the captioned case  
☐ electronically filed original filed on  
☒ original filed in my office on 9/6/05

Sarah A. Thornton  
Clerk, U.S. District Court  
District of Massachusetts

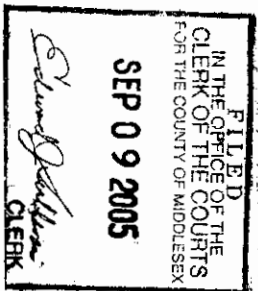
By: [Signature]  
Deputy Clerk

**NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1441(a)**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS:

Petitioner, Groton-Dunstable Regional School District ("Defendant"), respectfully petition this Court for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County, and for its Notice of Removal state as follows:

1. The defendant, Groton-Dunstable Regional School District is one of three name defendants by the plaintiffs, Danny Searles, Susan Searles and Glenn Searles ("plaintiffs"), in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County, entitled Danny Searles, by his mother and next friend Susan Searles et al. v. Deborah Stone et al., Civil Action No. 05-1845. On August 17, 2005, the defendant, Groton-Dunstable Regional School District, was served in-hand with a Summons and a copy of plaintiff's Complaint.



The defendant, Groton-Dunstable Regional School District has not yet answered the original Complaint, nor has an appearance been filed on Defendant's behalf.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in Middlesex County, Massachusetts, and, accordingly, under 28 U.S.C. §§101 & 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.
3. This is an action in which the plaintiffs allege, among other things, that the defendants, violated plaintiffs' due process and Fourth Amendment rights and accordingly, should be held liable under 42 U.S.C. § 1983.
4. Because this case involves federal constitutional issues and claims for relief under federal law, the District Court has original jurisdiction pursuant to 28 U.S.C. §1331.
5. The defendant is filing this Notice within thirty days of service of the Summons and original Complaint upon the defendant, Groton-Dunstable Regional School District, within thirty days of the date this case became removable, and within the time for filing this petition. See 28 U.S.C. §1446. See Copy of Complaint and Summons attached hereto as Exhibit A.
6. All defendants in this action have consented to removal.
7. The defendant will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Middlesex.

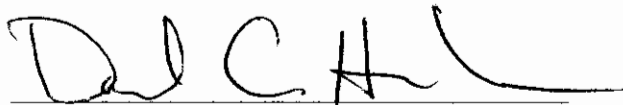
8. Pursuant to Local Rule 81.1(a), the petitioner shall request of the Clerk of the Superior Court of Massachusetts, County of Middlesex, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty days after the filing of this Notice of Removal.

WHEREFORE, petitioner, Groton-Dunstable Regional School District, prays that the above action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County be removed from that Court to this United States District Court.

Respectfully submitted,

The Defendant,  
Groton-Dunstable Regional School District,  
By its attorneys,

**PIERCE, DAVIS & PERRITANO, LLP**



David C. Hunter, BBO #647686

John J. Davis, BBO # 115890

Ten Winthrop Square

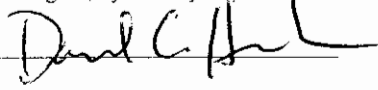
Boston, MA 02110

(617) 350-0950

Date: September 6, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by mail/by hand.

9/6/05   
Date



**Commonwealth of Massachusetts**

County of Middlesex

The Superior Court

CIVIL DOCKET# MICV2005-018 -L

RE: **Searles (ppa) et al v Stone et al**

TO: Jeffrey N Roy, Esquire  
 Ravech & Roy  
 699 Boylston Street  
 1 Exeter Plaza  
 Boston, MA 02116

**TRACKING ORDER - A TRACK**

You are hereby notified that this case is on the average (A) track as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

**STAGES OF LITIGATION****DEADLINE**

Service of process made and return filed with the Court	08/29/05
Response to the complaint filed (also see MRCP 12)	10/28/05
All motions under MRCP 12, 19, and 20 filed	10/28/05
All motions under MRCP 15 filed	08/24/06
All discovery requests and depositions completed	07/20/07
All motions under MRCP 56 served and heard	09/18/07
Final pre-trial conference held and firm trial date set	01/16/08
Case disposed	05/30/08

The final pre-trial deadline is **not the scheduled date of the conference**. You will be notified of that date at a later time.

**Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.**

This case is assigned to session L sitting in Cv CrtRm (Lowell), Middlesex Superior Court.

Dated: 06/01/2005

Edward J. Sullivan  
 Clerk of the Court  
 BY: Michael Brennan  
 Assistant Clerk

Location: Cv CrtRm (Lowell)  
 Telephone: 978-453-0201



AOTC-6 mtc005-11/99  
A.O.S.C. 1-2000